UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,299	11/21/2003	David Gutierrez	16443SSUS02U	3908

34645 7590 05/05/2008 Anderson Gorecki & Manaras, LLP Attn: John C. Gorecki P.O BOX 553 CARLISLE, MA 01741	**EXAMINER** TRAN, NGHI V

ART UNIT	PAPER NUMBER
2151	

NOTIFICATION DATE	DELIVERY MODE
05/05/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	*10/719,299*	GUTIERREZ ET AL.
	Examiner	**Art Unit**	
	NGHI V. TRAN	2151	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 March 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>4 </u>months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *1-17*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

   /John Follansbee/
    Supervisory Patent Examiner, Art Unit 2151

 Continuation of 11. does NOT place the application in condition for allowance because:

In response to the Applicant's arguments that Knight does not teach or suggest that a network element should handle a "parcel" of data by receiving the parcel, storing the parcel, and then forwarding the parcel, the examiner respectfully disagrees. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that the router in Knight does not store parcels of data for transmission over the WAN, but rather compress data before transmitting it over the WAN to reduce the bandwidth consumed on the WAN, the examiner respectfully disagrees. Data replication solution of Knight performs a special features such as compress data. However, the basic function or feature of storage router in data replication solution is also including in storage router. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that Knight does not teach or suggest that a network element should handle a "parcel" of data by receiving the parcel, storing the parcel, and then forwarding the parcel, the examiner respectfully disagrees. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that Knight does not teach or suggest transferring parcels of data, the examiner respectfully disagrees. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that there is no teaching or suggestion in Knight that the storage router is storing the parcel of data before transmitting it onto the WAN, the examiner respectfully disagrees. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that Knight does not teach or suggest storing a parcel of data by an intermediate network element, the examiner respectfully disagrees. According to Wikipedia Encyclopedia (see http://en.wikipedia.org), a router is a computer whose software and hardware are usually tailored to the tasks of routing and forwarding information and computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time. One of ordinary skill in the art would have been realized that the basic functions of storage router are including the functions of receiving data, storing data, and forwarding data. Knight discloses data replication solution including the replicate data over long distances such as WAN via storage router, see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data   because replication is the process of sharing information according

to Wikipedia Encyclopedia. Therefore, Knight discloses claimed feature as show in above.

In response to the Applicant's arguments that Knight does not teach or suggest a network element with network element storage, the examiner respectfully disagrees. Knight discloses a network element [= storage router 22] with network element storage [= computer data storage, often called storage or memory, refers to computer components, devices, and recording media that retain digital data used for computing for some interval time according to Wikipedia Encyclopedia. Therefore, storage router is inherently including network element storage]. Therefore, Knight discloses claimed feature as show above.

In response to the Applicant's arguments that Knight does not teach or suggest storing data intermediate a data source and data target, the examiner respectfully disagrees. Knight discloses data replication solution including the replicate data over long distances such as WAN [= WAN 14] via storage router [= storage router 22 or 28] between source [= source host 16 or 18] and target sites or host [= target host 24 or 30], see paragraphs 001-0002, 0007 and fig.1. One of ordinary skill in the art would have been recognized the replicate data is inherently including in parcel of data because replication is the process of sharing information according to Wikipedia Encyclopedia. Storage router is intermediate element. Therefore, Knight discloses claimed feature as show in above..